

THE HON'BLE SRI JUSTICE V.V.S. RAO

Writ Petition No.6390 of 2010

16-04-2010

Malini Byanna, D/o.Narasimhaiah Byanna

Central Information Commission, New Delhi and others

Counsel for Petitioner: Sri Milind G. Gokhale

Counsel for Respondents: Sri Ponnamm Ashok Gupta

:ORDER:

The petitioner is Non-Resident Indian. She lives in Hoffman Estates, Illinois, USA. In 1999, she was married to Mr.Vikram Akula (VK). They have a child born on 16.2.2001. The marriage ended in a divorce on 04.12.2002 statedly right to sole custody of minor child, Tejas, to petitioner. In July 2009, she came to India under Summer/Winter Agreed Visitation Order dated 18.6.2009 passed by the Circuit Court of Cook County, Illinois. After she came, Tejas was hospitalised due to illness. She alleges that her ex-husband, VK, promised to provide good life to her and Tejas. On an experimental basis she started staying in India.

VK allegedly started ex parte litigation in Family Court, Hyderabad, after taking possession of Tejas, while she was out of India temporarily. This case is now pending in Supreme Court of India being Special Leave Petition (Criminal Nos.38 - 40 of 2010 and Special Leave Petition (Civil) Nos.5019 - 5020 of 2010. It appears, VK made an allegation that petitioner tried to flee away from India with Tejas on 18.10.2009 and produced e-ticket itineraries and boarding passes as evidence in Chicago Court. She denies the allegation. She also denies having obtained e-ticket itineraries or boarding passes for herself or Tejas. She suspects that they were concocted and fabricated by VK. Therefore, she applied to Public Information Officer, Jet Airways, Rajiv Gandhi International Airport (RGIA) - fourth respondent herein; seeking following information under the Right to Information Act, 2005 (RTI Act).

- (a) Is there a practice with Jet Airways to prepare boarding passes before a passenger checks in?
- (b) If not, how were boarding passes created in my name and in the name of my son, Tejas Byanna-Akula without the same being reflected in our official documents?
- (c) Is there a practice of PNR numbers, boarding passes, and e-ticket itineraries being provided, printed out, and supplied to third parties without the passenger's express knowledge and consent, written or otherwise?
- (d) If not, by what method did the said PNR number, boarding passes, e-tickets and itineraries reach Mr.Vikram Akula and/or his agents?
- (e) Who were the personnel on duty for Flight 9W 2258 on 18th October 2009?

Jet Airways, RGIA, did not respond. Therefore petitioner approached third

respondent. Statedly she was asked to go back to Jet Airways, which she did but of no avail. Therefore, she filed an application before the appellate authority under RTI Act - the Director General of Civil Aviation (DGCA). In response thereto, DGCA sent a communication dated 27.1.2010 informing that there are no regulations requiring Airlines to provide such information to DGCA and as such no information available in his office. Therefore, petitioner approached this Court seeking a writ of Mandamus declaring the action of respondents in not disclosing the required information as being contrary to provisions of the Act and for a consequential direction to furnish information sought by the petitioner.

The counsel for petitioner relies on Section 12(3)(i) of Airport Authorities of India Act, 1994 (AAI Act) and Section 2(f) of RTI Act and submits that second respondent being regulatory authority having regulatory control over Jet Airways is under obligation to call for information from Jet Airways while exercising appellate powers under RTI Act. According to petitioner's counsel, Jet Airways is a public authority within the meaning of Section 2(h) of RTI Act.

The submission that Jet Airways is "public authority" within the meaning of Section 2(h)(d)(i) is misconceived. By the definition "public authority" means, "any authority or body or institution of self-government established or constituted by or under the Constitution, by any other law made by Parliament, by any other law made by State Legislature, by notification issued or order made by the appropriate Government and includes any body owned, controlled or substantially financed". No material is placed before this Court to show that Jet Airways is substantially financed or controlled either by Central or State

Government. Therefore, Jet Airways is not a "public authority" for the purpose of RTI Act. Section 12(3)(i) of AAI Act is also of no assistance to petitioner. Mere fact that DGCA is a licensing authority in respect of private airlines does not mean that DGCA can regulate the information flow by Jet Airways. The petitioner has other remedies including the provisions under Code of Civil Procedure, 1908 and the Criminal Procedure Code, 1973, for summoning the information from Jet Airways.

The writ petition is misconceived and is accordingly dismissed.